

# Notice of Allowability

Application No.

09/475,958

Examiner

Bradley L. Sisson

Applicant(s)

BITNER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

1. ☒ This communication is responsive to the interview of 13 July 2000 and the IDS submissions of 4/00 and 7/00.
2. ☒ The allowed claim(s) is/are 1-25 and 27-29.
3. ☐ The drawings filed on \_\_\_\_\_ are acceptable.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the CERTIFIED copies of the priority documents have been
    1. ☐ received.
    2. ☐ received in Application No. (Series Code / Serial Number). \_\_\_\_\_.
    3. ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

A SHORTENED STATUTORY PERIOD FOR REPLY to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office Action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be available under the provisions of 37 CFR 1.136(a).

6. ☒ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
  - (a) ☐ because the originally filed drawings were declared by applicant to be informal.
  - (b) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (c) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner.
  - (d) ☐ including changes required by the attached Examiner's Amendment / Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

- |   |   |
|---|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3 <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                          | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>6</u> . |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>7, 8</u> . | 6 <input type="checkbox"/> Examiner's Amendment/Comment                                 |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material      | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                |
|   | 9 <input type="checkbox"/> Other  |



## MATCH & RETURN

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karen King on 13 July 2000.

The application has been amended as follows:

In the claims:

1. (Twice amended) A method of using magnetic particles to concentrate or harvest cells, comprising the steps of:
  - (a) combining cells with magnetic particles, under conditions wherein the cells selectively adsorb directly to the particles thereby forming a complex [form a complex with the magnetic particles], wherein said magnetic particles are selected from the group consisting of (1) pH dependent ion exchange particles and (2) silica magnetic particles consisting essentially of a magnetic core coated with a siliceous oxide having a hydrous siliceous oxide adsorptive surface; and
  - (b) isolating the complex from the solution by application of magnetic force.
8. (Twice amended) A method of clearing a solution of disrupted biological material, according to steps comprising:
  - (a) providing a solution comprising a disrupted biological material;
  - (b) combining the solution with second magnetic particles under conditions wherein the disrupted biological material selectively adsorbs directly to the particles, thereby forming [forms] a complex [with the second magnetic particles], wherein said magnetic particles are selected from the group consisting of (1) pH dependent ion exchange particles and (2)

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silica magnetic particles consisting essentially of a magnetic core coated with a siliceous oxide having a hydrous siliceous oxide adsorptive surface; and

(c) separating the complex from the solution by application of magnetic force.

21. (Twice amended) A method of isolating a target nucleic acid from a disrupted biological material, comprising the target nucleic acid, a first non-target material, and a second non-target material, comprising the steps of:

(a) combining a solution of the disrupted biological material with first magnetic particles under conditions wherein the first non-target material selectively adsorbs directly to the particles, thereby forming [forms] a first complex [with the first magnetic particles], wherein said magnetic particles are selected from the group consisting of (1) pH dependent ion exchange particles and (2) silica magnetic particles consisting essentially of a magnetic core coated with a siliceous oxide having a hydrous siliceous oxide adsorptive surface;

(b) separating the first complex from the solution of disrupted biological material by application of magnetic force, forming a cleared solution comprising the target nucleic acid and the second non-target material;

(c) combining the cleared solution with second magnetic particles under conditions wherein the target nucleic acid adsorbs to the second magnetic particles, forming a second complex;

(d) isolating the second complex from the cleared solution;

(e) washing the second complex by combining the second complex with a wash solution and separating the second complex from the wash solution by magnetic force; and

(f) combining the washed second complex with an elution solution, under conditions wherein the target material is desorbed from the second magnetic particles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley L. Sisson whose telephone number is (703) 308-3978.

The examiner can normally be reached on 6:30 a.m. to 5 p.m., Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W Gary Jones can be reached on (703) 308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Bradley L. Sisson  
Primary Examiner  
Art Unit 1655

BLS  
July 14, 2000